

**IN THE UNITED STATES COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

US MEDICAL NETWORKS, LLC,

Plaintiff,

v.

BIOFIRE DIAGNOSTICS, LLC,

Defendant.

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Civil Action No. 3:19-cv-01848-E

AMENDED SCHEDULING ORDER

The Court hereby amends its Scheduling Order, dated September 16, 2019, as follows:

1. This case is set for trial on January 11, 2022. The Court will conduct a pretrial conference on January 10, 2022 at 10:00 a.m.
2. Plaintiff US Medical Networks, LLC (USMN) shall answer Defendant BioFire Diagnostics, LLC's counterclaims by October 8, 2021.
3. The Court will entertain further briefing from the parties in connection with BioFire's request that the Court reconsider its summary judgment order (Doc. No. 267) briefed in succession as if filed as a motion for reconsideration. Specifically, in connection with such motion for reconsideration by BioFire, the parties will brief the following issues:
 - a. Whether there is a conflict between Texas law and Utah law and, if so, whether Texas law or Utah law governs the issues with respect to which USMN raised these issues in its summary judgment briefs; and
 - b. Whether the Limitation of Liability provision of the Amended LSP Agreement between the parties bars, caps or otherwise limits any of USMN's claims for

damages and is enforceable.

4. Briefing on the subjects listed in paragraph 3 shall be due as follows:

- a. BioFire shall file a single opening brief addressing the issues identified in subparagraphs 3(a) and (b) above by October 12, 2021;
- b. USMN shall file its responsive brief by October 26, 2021; and
- c. BioFire shall file its reply brief by November 5, 2021.

5. The length of the briefs provided for in paragraphs 3 and 4 above shall be as follows:

- a. BioFire's opening brief shall be no longer than fifteen (15) pages;
- b. USMN's responsive brief shall be no longer than fifteen (15) pages; and
- c. BioFire's reply brief shall be no longer than ten (10) pages.

6. USMN may seek leave to file a sur-reply of up to ten (10) pages if it deems necessary to clarify an argument or authority in BioFire's Reply Brief. BioFire will likely oppose such motion for leave.

7. BioFire shall serve objections to USMN's request for supplemental production by October 15, 2021. Subject thereto, BioFire shall complete its supplemental document production by October 29, 2021.

8. USMN shall serve objections to BioFire's requests for supplemental production by October 15, 2021. Subject thereto, USMN shall complete its supplemental production by October 29, 2021.

9. USMN shall serve any final updates of its experts' opinions by November 19, 2021. As stated by USMN's counsel during a conference on September 23, 2021, BioFire shall not be required to serve updated opinions of its experts.

10. The four remaining depositions – BioFire, McKesson, Taylor Raetz and Terry McBride – shall be completed by November 19, 2021.

11. The parties shall file all pretrial materials by December 6, 2021. Pretrial materials shall include the following:

- a. pretrial order pursuant to LR 16.4;
- b. exhibit lists, witness lists, and deposition designations pursuant to LR 26.2 and Rule 26(a)(3); witness lists should include a brief summary of the substance of anticipated testimony (not just a designation of subject area) and an estimate of the length of direct examination; exhibit lists must include any materials to be shown to the jury, including demonstrative aids; the parties shall comply with Rule 26(a)(3) regarding objections;
- c. proposed jury charge pursuant to LR 51.1 or proposed findings of fact and conclusions of law pursuant to LR 52.1; any objections to the proposed jury charge shall be filed within 14 days thereafter; objections not so disclosed are waived unless excused by the Court for good cause;
- d. motions in limine; matters that are not case-specific are strongly discouraged; and
- e. requested voir dire questions.

12. BioFire may supplement its pretrial filings to address new updated opinions by USMN damages experts until December 10, 2021.

13. The parties shall exchange attorney engagement agreements and redacted time records by December 13, 2021.

14. Objections to the other side's pretrial materials and counter-designations shall be filed by December 20, 2021.

SO ORDERED; signed October 7, 2021.

A handwritten signature in black ink, appearing to read 'Ada Brown', written over a horizontal line.

Ada Brown

UNITED STATES DISTRICT JUDGE